IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.993 OF 2006
Along with
Civil Application No.1671 of 2006

Narayan Anant Arolkar and ors, .. Appellants. (Orig.Defts)

Vs

Bhagirathi Gajanan Gosavi and ors. .. Respondents (Orig.Plffs)

Mr A.S.Khandeparkar i/b M/s Khandeparkar & Associates, for the appellants.

Mr S.D.patil i/b Mr Vikas Mahangare for respondent no.3.

CORAM : D.B.BHOSALE,J.
DATE : 06/03/2007

PC:

1. Heard the learned counsel for the parties.

2. This appeal by the original defendants is directed against the concurrent judgments of the courts below, by which a suit filed by the respondents-plaintiffs for injunction simplicitor stands decreed. Both the courts below, after having taken into consideration the entire material on record and more particularly the decision in the tenancy proceedings, have recorded a categoric finding that plaintiff no.1 was in possession of the suit land on the date of institution of the suit and her title in the suit land

also stands proved. All the issues framed by both the courts below have been answered in favour of the plaintiffs. Mr Khandeparkar, learned counsel for the appellants-defendants, however, submitted that the only basis for decreeing the suit in favour of the plaintiffs was the certificate under section 32-M of the B.T. And A.L.Act, which is under challenge and the proceedings are pending before the tenancy authorities. It appears that the 32-M certificate was issued in 1977 and it was challenged for the first time in the year 1998. The proceedings are pending before the Maharashtra Revenue Tribunal. Keeping that in view and considering the findings recorded on all the issues, the second appeal deserves to be dismissed. Order accordingly. As a consequence thereof, the civil application for stay is rejected. However, the dismissal of the appeal shall not preclude the appellants-defendants from adopting appropriate remedy, if any, available in law, if they ultimately succeed in the proceedings before the tenancy authorities. While making this observation, I shall not be understood to have expressed any opinion on the rights of the appellants-defendants. If such proceedings are adopted by the appellants, same may be considered and dealt with in accordance with law.

(D.B.BHOSALE,J.)